

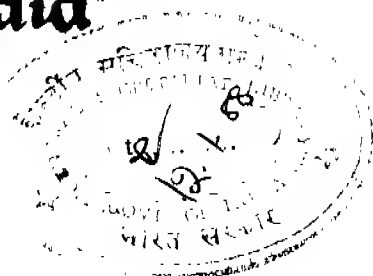


भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY



सं. 29] नई दिल्ली, शुक्रवार जुलाई 31, 1987/भाषण 9, 1909
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 31st July, 1987:—

BILL No. 60 OF 1987

A Bill to provide for the payment of minimum wages and for welfare of agricultural workers.

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Agricultural Workers (Minimum Wages and Welfare) Act, 1987.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the State Government and in the case of a Union Territory, the Government or the administration as the case may be, of the Union territory;

Short title, extent and commencement.

Definitions.

(b) "authority" means the Authority appointed by the appropriate Government under section 3;

(c) "employer" means any person who employs, whether directly or through another person, whether on behalf of himself or on behalf of any other person, one or more workers for any work connected with the agricultural operations on land, which he owns or is managing for somebody else;

(d) "prescribed" means prescribed by rules under this Act;

(e) "wages" means remuneration capable of being expressed in terms of money, which shall, if the terms of the contract of employment, whether express or implied, are fulfilled, be payable to a person in respect of the work done in such employment; and

(f) "worker" means an agricultural worker, both men and women, who earns wages on daily or any other basis.

Establishment of Agricultural Workers Welfare Authority.

3. (1) The appropriate Government shall, by notification in the Official Gazette, establish an Agricultural Workers Welfare Authority (hereinafter referred to as "Authority").

(2) Every Authority shall have such set-up and such powers as the appropriate Government may, determine from time to time.

Functions of Authority.

4. (1) Every Authority shall,—

(a) maintain land records from village or panchayat level to district level;

(b) maintain a district-wise register of agricultural workers with such particulars, and in such manner, as may be prescribed;

(c) maintain a district-wise register of employers employing agricultural workers with such particulars, and in such manner, as may be prescribed; and

(d) regulate the service conditions of agricultural workers in such manner, as may be prescribed.

(2) The Authority shall perform such other functions as may be assigned to it by the appropriate Government from time to time.

Punishment to unregistered employer.

5. (1) No employer shall engage any agricultural worker unless he has registered himself with the Authority.

(2) If an unregistered employer engages any person for working on his land, he shall be punishable with imprisonment for a term which may extend to one year or with fine, or with both.

Minimum wages to be paid to workers.

6. Every employer shall pay a minimum of rupees seven hundred per month or rupees thirty per day to a worker engaged by him for work on his land, and this rate of wages shall be subject to change in accordance with the rise in price index.

Counting of period of service of worker.

7. Every day of the work done by the worker shall be counted for the purpose of calculating the total period of service rendered by the worker in a month or a year.

8. (1) The Central Government shall, by due appropriation, constitute a Fund to be called the Agricultural Workers Welfare Fund for the welfare of agricultural workers. Constitution of Agricultural Workers Welfare Fund.
- (2) Such Fund shall be distributed to each of the respective Authorities in the ratio of agricultural workers registered in the respective areas.
9. There shall be formulated a Scheme by the appropriate Government for providing pension-cum-provident fund facility out of the fund created under section 8 to the workers on their attaining the age of fifty-five years. Scheme for pension-cum-provident fund.
10. The dependent of any worker who dies while working shall be paid lumpsum of rupees one thousand or more depending upon the service he has rendered and his age, out of the fund created under section 8. Compensation for death while working.
11. Every Authority shall submit to the appropriate Government such periodical returns including a list of the workers of the district registered with that Authority, within such intervals and with such particulars, as may be prescribed. Periodical returns by every Authority.
12. Every employer shall, before engaging any worker, notify his need of workers to the Authority within whose jurisdiction his land is situated. Employer to notify his need of workers to Authority.
13. No employer shall reject a worker on the ground that he is not capable of performing a particular job. Employer not to reject worker.
14. There shall be set up an Advisory Council by the Central Government to advise the appropriate Government on the implementation of this Act. Advisory Council.
15. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

At present there is no legal protection for agricultural workers in regard to their working conditions, wage structure, pension and other social security measures and covering of risk. Their condition is becoming worse day by day, many workers die while doing the job and their families are ruined and there is no protection to their families. Considering the vast number of agricultural workers and their contribution to the national wealth, it is high time that this vital section of the society is given all possible legal protection.

Hence this Bill.

New DELHI;
February 4, 1937.

BASAVARAJESWARI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall establish an Agricultural Workers Welfare Authority.

Clause 8 of the Bill provides for the constitution of an Agricultural Workers Welfare Fund.

Clause 14 of the Bill provides that the Central Government shall set up an Advisory Council to advise the appropriate Government on the implementation of the Act. The Central Government shall have to provide financial assistance to State Governments to carry out the provisions of the Bill. This Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India in respect of Union territories. It is likely to involve a recurring expenditure of about rupees forty crores. Non-recurring expenditure of about rupees fifty lakhs is likely to be involved from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. Since the rules will relate to matters of details only, the delegation of the legislative powers is of a normal character.

BILL NO. 42 OF 1987

A Bill to amend the Environment (Protection) Act, 1986.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Environment (Protection) Amendment Act, 1987. Short title.

29 of 1986. 2. In section 2 of the Environment (Protection) Act, 1986 (hereinafter referred to as the principal Act),— Amendment of section 2.

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) “environment” includes water both surface and underground and also the territorial waters, air, and land including the surface of the earth, sub-soil and the forests (the flora and the fauna) and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property exclusive of mere amenities;”

(ii) for clause (b), the following clause shall be substituted, namely:—

‘(b) “environmental pollutant” means any solid, liquid or gaseous substance introduced into the environment in such concentration as may, or tend to alter substantially the composition of the environment or injurious to environment and includes heat, radiation and noise;’

Amendment of section 3.

3. In section 3 of the principal Act,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Central or State Governments may, by order, published in its or their Official Gazettes, constitute such enforcement agencies at Central or at State level as they consider necessary and expedient so to do for the purposes of enforcing or implementing the provisions of this Act.”; and

(ii) sub-section (3) shall be omitted.

Insertion of new sections 3A, 3B, 3C, 3D and 3E.

4. After section 3 of the principal Act, the following sections shall be inserted, namely:—

Constitution of National Environmental Quality Agency and National Environmental Authority.

“3A. (1) Notwithstanding anything contained in sub-section (2) of section 3, the Central Government shall constitute a National Environmental Quality Agency (hereinafter referred to as Agency) and a National Environmental Authority (hereinafter referred to as Authority) for the purposes of implementation of the provisions of this Act.

(2) Notwithstanding any statutory agency already functioning in the State, the Central Government shall, in consultation with the State Governments, constitute Regional offices of the Agency and Authority in every State to be called State Environmental Agency and State Environmental Authority.

(3) The Agency and the Authority shall have the power to supervise and to coordinate the functions of these regional offices:

Provided that the Agency and Authority may entrust some of its functions and delegate its powers to the Regional Offices.

Composition of Agency.

3B. The Agency shall consist of five members who have specialised in the field of environmental and legal sciences, and a legal cell with specialists in the field of environmental law, to be appointed by the Central Government.

Powers and functions of the Agency.

3C. (1) The powers and functions of the Agency shall include the following:—

(a) to strive to evolve a national environmental policy and to protect and preserve environment in an acceptable state;

(b) to study man environment interaction and the implications of rapid industrialisation and weather modification techniques and their impact on the ecology;

(c) to promote research in the environmental field, and to collect and disseminate the information in respect of matters relating to environmental pollution and to publish annual environment assessment reports;

(d) to prepare manuals, codes or guide-lines for promotion and improvement of environmental protection;

(e) to lay down standards for the quality of environment in its manifestation aspects;

(f) to indentify and designate those industries and other activities that are of significant sources of pollution;

(g) to lay down standards for emission or discharge of environmental pollutants from various sources whatsoever;

(h) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall or shall not be carried out subject to certain prescribed safeguards;

(i) to lay down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(j) to lay down procedures and safeguards for the handling of hazardous substances;

(k) to examine such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(l) to suggest alternative methods of meeting rapidly increasing urban transport needs;

(m) to study vehicle pollution control methods and inspect devices used for their purpose and to encourage the use of low-pollution automobiles and fuels;

(n) to undertake research for upgrading technology in order to reduce pollution through noise and discharge of exhaust to the minimum possible levels, and to regulate fuel composition and additives;

(o) to collect representative samples of instruments to control pollution in automobiles, for periodical scrutiny.

(2) In particular, the Agency shall designate the following as priority areas for research:—

(i) methods for comprehensive environmental development of human settlements, both urban and rural, and the exploitation and optimum use of natural resources;

(ii) quantitative housing requirements and other infrastructure in this connection, and the activities of several public works departments;

(iii) water supply, sewerage and waste disposal systems adapted to local conditions; and

(iv) the problem of deforestation, the use of chemicals and fertilisers to control insects and weeds, soil conservation, silt from land erosion, heat from industrial processes and power generating equipments, radio-active materials and nuclear fall out and pollution by noise from industries and automobiles.

(3) The legal cell of the Agency shall be responsible for laying down detailed procedures as to the mode and quantum of compensation to be paid in cases of loss of life or injury to property or the environment or health of human beings caused by environmental pollution:

Provided that the Agency may work in close coordination with the specialists in environmental planning and rural development.

Composition of Authority.

3D. The Authority shall be responsible for enforcing and implementing the long-term and short-term plans and environmental standards laid down by the Agency and shall consist of three members to be appointed by the Central Government,

Powers and functions of Authority.

3E. The Authority shall have the power to—

(a) inspect any premises, plant, equipment, machinery, manufacturing or other process, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(b) to initiate legal proceedings against persons or concerns contravening the provisions of this Act;

(c) to collect samples of air, water and soil from the premises of industrial and other potential sources of pollution;

(d) to investigate into and report on the alleged violations of the Act on the basis of complaints lodged by individuals or bodies of individuals; and

(e) to take immediate remedial steps in cases of emergency.

Substitution of new section for section 4.

5. For section 4 of the principal Act, the following section shall be substituted, namely:—

Appointment of officers and their powers and functions.

"4. (1) The Authority may appoint officers with such designations as it thinks fit for the purposes of this Act and may entrust to them such of the powers and functions under this Act as it may deem fit.

(2) The officers appointed under sub-section (1) shall be subject to the general control and direction of the Authority."

6. For section 19 of the principal Act, the following section shall be substituted, namely:—

Substitu-
tion of
new
sec-
tion for
section
19.

"19. (1) No Court below the rank of a District Court shall be empowered to decide disputes arising under this Act.

Filing
of
suits.

(2) A case under this Act may be filed either by an individual or a body of individuals directly or through the State Environmental Authority or by the Authority itself.

(3) On being approached by any individual or a body of individuals with a complaint against an alleged contravention of this Act, the Authority shall make a preliminary investigation into the allegations, and if it is satisfied that a *prima facie* case exists, it shall file a case against the alleged polluter.

(4) While sitting to pronounce upon environmental matters, the Court,—

(i) shall be assisted by at least two environmental experts to be made available by the State Government;

(ii) may require the State Authority to investigate into the matter and file the report thereof before it and on such requisition being made, the authority shall do so."

STATEMENT OF OBJECTS AND REASONS

Though the Environment (Protection) Act was passed in 1986, the Government has not been able to contain the environment pollution effectively. The Government has also not been able to implement the various provisions of environmental laws due to inadequate machinery. Apart from pollution of air and water, individual health, wild life and other living and non-living resources—of the land and seas—("The flora and the fauna") are also affected by the environmental pollution. It is high time public is made aware of the problems connected with environmental pollution. They should be involved in safeguarding individual and social interests.

The Government should be made responsible for payment of compensation for injury to health, property of a person due to pollution. The Bill seeks to extend the scope of the Environment (Protection) Act, 1986 to other aspects of Environment such as individual health, wild life, flora and fauna. To implement the provisions of the Act properly, a more comprehensive enforcement machinery should be constituted.

The Bill seeks to suggest modifications and incorporate necessary changes in the Act with a view to make it more meaningful and effective by plugging certain loopholes in dealing with problems of environmental pollution.

NEW DELHI;

BHATTAM SRIRAMA MURTY

March 5, 1987.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government may, if it considers necessary, constitute enforcement agencies for implementing the provisions of the Environment (Protection) Act, 1986. Clause 4 provides that the Central Government shall constitute National Environmental Quality Agency and National Environmental Authority and Regional offices of these machineries in every State. The Agency and the Authority shall consist of five and three members respectively, to be appointed by the Central Government. It further provides that the Agency would undertake research work, collect information, lay down standards for the quality of environment, and for emission or discharge of environmental pollution, preparation of manuals and codes in connection with environmental pollution. It further provides for payment of compensation for loss of life, injury to property or health of human beings due to environmental pollution. Clause 5 provides for appointment of officers by the Authority.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. An estimated annual recurring expenditure of rupees two crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees one crore is also likely to be involved.

BILL NO. 57 OF 1987

A Bill to provide for determining domicile requirement and transferability for public employment.

Enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

Short
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and com-
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ment.

1. (1) This Act may be called the Public Employment (Field of Selection, Domicile Requirement and Transferability) Act, 1987.

(2) It shall extend to the whole of India.

(3) It shall come into force with effect from such date as the Central Government or the State Government as the case may be, may, by notification in their official Gazette, appoint.

Public
employ-
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shall be
subject to
require-
ment of
residence
within
the field
of selec-
tion.

2. (1) All public employment shall be subject to the requirement of residence within the field of selection.

(2) The field of selection shall be defined as follows:—

(a) *GROUP A posts*:—The country as a whole, if the employment is under the Central Government, and within the State or the Union territory, if the employment is under a State Government or Union territory Administration;

(b) *GROUP B posts*:—The State, if the employment is under the Central Government, and within a division or a pre-defined

region consisting of not more than four contiguous districts, if the employment is under a State Government or Union territory administration;

(c) *GROUP C posts*:—The District, if the employment is under the Central Government or a State Government or Union territory Administration;

(d) *GROUP D posts*:—The Sub-division or Tehsil or Taluk, if the employment is under the Central Government or a State Government or Union territory Administration.

(3) In case of non-availability of suitable candidates with the prescribed minimum qualification within the field of selection, the recruiting authority may, with the approval of the controlling authority, suitably enlarge the field of selection to include the immediately contiguous field of selection for posts of the same Group.

3. (1) The area of transferability for each group of posts shall be co-terminous with the field of selection.

Transfers
of public
employees.

(2) No public employee shall be transferred from one post to the other before completion of three years service from the date of prior posting except in public interest, for reasons to be recorded in writing by the controlling authority:

Provided the employee may himself seek pre-mature transfer on compassionate grounds in which case no transfer grants or travelling allowance shall be payable to him nor shall he be entitled to any joining time.

(3) No public employee shall be retained at the place of posting beyond three years, except for reasons to be recorded, in writing, by the controlling authority and even then for not more than two terms not exceeding six months in each case.

4. The Public Employment (Requirement as to Residence) Act, 1957 is hereby repealed.

Repe-
aling
of Act No.
44 of 1957.

STATEMENT OF OBJECTS AND REASONS

The Constitution of India stands for equality before law and bars discrimination on ground only of place of birth and establishes equality of opportunity for all citizens in matters of public employment. However, article 16(3) empowers the Parliament to prescribe any requirement as to residence within a State or Union territory in regard to a class or classes of employment or appointment to an office under the Government of that State or in a local or other authority therein.

The Public Employment (Requirement as to Residence) Act, 1957, which was intended to do away with domicile requirement has been a dead letter in practice and for reason of convenience and because of the linguistic problem, most recruiting authorities have prescribed domicile requirement under one ground or the other. In fact, therefore, the 'son of the soil' theory is becoming more and more accepted under democratic pressure. There are wide disparities in employment opportunities among various States and within each State there are regions which are relatively under-represented in public employment and even within the region itself, at various levels.

It stands to reason and appears to be just that public service in lower grades should be manned locally, so long as persons with the requisite minimum qualification are available, because the local population has an immediate and, therefore, a preferential claim. This would also be in public interest because such posts are largely nontransferable or the incumbents are transferable within a small zone.

To regulate this matter, it is proposed to prescribe a national guideline, which would define for every category of public service, a field of selection and a zone of transferability.

Finally, pre-mature transfer of public servants, because of political intervention, has reached a proportion which also need to be regulated. Such premature transfers consume public money and demoralise public servants and affect the efficiency and integrity. Similarly, prolonged extension in transferable post is also against public interest. Generally, every public servant should be permitted to complete but not to overstay his term, except in public interest for reasons to be recorded in writing by the controlling authority.

Hence this Bill.

NEW DELHI;
March 14, 1987.

SYED SHAHABUDDIN

BILL NO. 59 OF 1987

A Bill to provide for the maintenance and rehabilitation of destitutes and poor.

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Destitute and Poor (Maintenance and Rehabilitation) Act, 1987.

(2) It extends to the whole of India.

(3) It shall come into force from such date as the Central Government may, by notification in the Official Gazette, appoint, but such date shall not be later than six months from the date of its receiving assent.

2. In this Act,—

(a) "destitute" means a person—

(i) who lives uncared for and is stricken with infirmity owing to age or physical deformity or ailment or mental imbalance;

(ii) who lives on footpaths or at any other public place not meant for residence and lives on charity of others;

Short
title,
extent
and
commence-
ment.

Definitions.

(iii) who maintains himself on begging or charity of others not by way of natural affection or fiduciary relation;

(iv) who is an uncared for boy or girl who has not completed the age of 16 years;

(v) who satisfies conditions laid down by the National Board, established under section 4, for being declared a destitute.

(b) "poor" means a person whose daily earnings on the average do not exceed,—

(i) if living alone, five rupees;

(ii) if living with unearning wife, seven rupees and fifty paise;

(iii) if living with family, per head income of the family members is less than three rupees.

Explanation.—In this clause, "family" means and includes parents, spouse, children, unmarried daughters, dependant brothers and unmarried sisters.

3. There shall be established by the Central Government a separate Department to look after the destitutes and the poor and it shall be the responsibility of the Department to make plans for their rehabilitation in life.

Estab-
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a Depart-
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for the
welfare
of desti-
tutes and
poor.

4. (1) There shall be established by the Central Government a Board to be known as the "National Destitute and Poor Rehabilitation Board," hereinafter called as the "National Board", which shall consist of the Prime Minister, the Chief Ministers of the States, Chief Administrators of the Union territories and such other persons as the Central Government may prescribe.

Estab-
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National
Desti-
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Poor
Rehabil-
itation
Board.

(2) It shall be the duty of the board to enunciate the national policy in regard to the destitutes and the poor and suggest ways and means for their ultimate rehabilitation in life.

5. There shall be established by every State Government or Union territory Administration a Board to be known as the "State or Union territory Destitute and Poor Rehabilitation Board", as the case may be, hereinafter called as the "State Board" or "Union territory Board", as the case may be, which shall consist of the Chief Minister of the State or the Chief Administrator of the Union territory, as the case may be, and such other persons as the State Government or the Union territory Administration may prescribe, to advise and guide the National Board about the requirements of the State or the Union territory for carrying out the purposes of the Act.

Estab-
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Union
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Poor
Rehabil-
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Boards.

6. (1) It shall be the duty of the Central Government to carry out the policy of the National Board into effect, with the help of the State Governments and Union territory Administrations, through release of funds and materials.

Duty to carry out the policy of National Board.

(2) It shall be the duty of every State Government and Union territory Administration to carry out the policy of the National Board and feed back the experience gained during the process of implementation of the policy and to give suggestions for improvement of the policy.

7. There shall be established and run by the Central Government throughout the country such number of homes, as may be necessary, and each home shall be called "Shelter".

Establishment of shelters.

8. From such date or dates, as the Central Government may prescribe, by notification in the Official Gazette, after consultation with the State Governments or Union territory Administrations, but not later than one year from the date this Act comes into force, begging or residing on footpaths and in public places shall be prohibited.

Prohibition of begging or residing on footpaths.

9. After the establishment of shelters, all destitutes, any person, not being an able-bodied adult, declaring himself as a destitute, any person found begging after the appointed date, any person found residing on footpath or in public place after the appointed date, shall be removed to the shelters.

Removal of persons to shelters.

10. In the shelter, the destitutes shall be provided free of cost such necessities of life, such as—

Facilities to be provided in shelters.

(a) food and lodging;

(b) medical care and treatment;

(c) such education, literal or vocal, as may seem suitable;

(d) such vocational training that is suitable for him or her to establish him or her in a fruitful pursuit in future;

(e) such other necessities or facilities as may be prescribed by the National Board.

11. All poor shall be supplied, at a price to be determined by the State Board or the Union territory Board, as the case may be, with the approval of the National Board, per head—

Supply of wheat, etc. to the poor.

(a) ten kilogram of grains of which half quantity shall be wheat or wheat products or rice products or both, per month;

(b) two sets of clothing per year.

12. There shall be constituted by the Central Government a Fund to be called the "National Fund for the Rehabilitation of Destitutes and Poor" to which shall be credited—

Constitution of the National Fund for the Rehabilitation of Destitutes and Poor.

(a) all kinds of fines collected under the Income Tax, Central Excise, Customs or any other fiscal laws;

(b) sale proceeds or value of goods or articles or properties confiscated under the aforesaid Acts;

(c) five per cent. of the sale proceeds of lotteries;

(d) the amount collected by way of levy of atleast five per cent. of the daily offerings in all religious shrines to be collected as a revenue by the Collector of the area;

(e) all kinds of fines under the Sales Tax, State Excise or any other such Acts;

(f) all fines realised by the Civil, Criminal and revenue courts;

(g) donations from individuals and others;

(h) Central Government's allocation of wheat, rice and similar other materials.

Rehabilitation centres for destitutes and poor.

13. The State Governments or Union territory Administrations shall run rehabilitation centres for proper rehabilitation of destitutes and poor through proper and adequate training in some trade or vocation, for which the Central Government shall extend all help in cash and kind.

Rehabilitation of destitutes and poor.

14. The Central Government shall arrange for proper rehabilitation of destitutes and poor, trained by the State or Union territory rehabilitation centres established under section 13 so that they can fend for themselves.

Power to make rules and regulations.

15. The Central Government shall make rules and regulations for carrying out the purposes of this Act.

Report on the performance of the Act.

16. The Central Government shall present, in the beginning of each Budget Session, a detailed report of the performance of this Act in both Houses of Parliament.

STATEMENT OF OBJECTS AND REASONS

The destitute and poor are neglected by the society as a whole because they have no organised representation anywhere in the society. They live uncared for and are stricken with infirmity owing to age or deformation or ailment or mental imbalance. Many of them were born on the footpath, spend their lives on the footpath and die there, sometime unnoticed and many times unsung. Most of them are evicted from their land due to natural calamities like flood, drought or treachery of money-lenders and to live they come to cities, where they end up on the pavements and other public places. Society owes much to itself for humane treatment to these poor and destitutes. Proper rehabilitation programme and chance to be in the mainstream of the population, if extended to these unfortunate persons, who are victims of circumstances, they too can be respectable and responsible members of the society. A minor portion of revenue, if diverted for the upliftment of these people, will go a long way to give some soothing touch to these people and will help in rehabilitating them in their life. A vocational training, a helping hand, a little sympathy coupled with chance will go a long way to rehabilitate them in life. This can be done only when they are housed in protective environments where they can get something to eat and wear followed by some vocational training. This is the need of the hour and such unfortunate people deserve it from the society.

The Bill seeks to achieve these objectives.

NEW DELHI;
March 10, 1987.

AJOY BISWAS

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117
AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 10-11/87-SD, dated 14 April 1987 from Dr. (Smt.) Rajendra Kumari Bajpai, Minister of State of the Ministry of Welfare to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Destitute and Poor (Maintenance and Rehabilitation) Bill, 1987 by Shri Ajoy Biswas, M.P., recommends under clause (1) of article 117 and clause (1) of article 274 of the Constitution introduction of the above Bill in Lok Sabha and under clause (3) of article 117 for consideration of the Bill by Lok Sabha.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a separate Department for the welfare of destitutes and poor. Clause 4 provides for the establishment of the National Destitute and Poor Rehabilitation Board. Clause 5 provides for the establishment of State or Union territory Destitute and Poor Rehabilitation Boards. The States will meet expenditure regarding the State Boards but for the Union territory Boards, the Central Government will have to incur expenditure. Clause 6 provides that it shall be the duty of the Central Government to carry out the policy of National Board by means of funds and materials. Clause 7 provides for the establishment of shelters for the destitutes and poor. Clause 9 provides for removal of beggars, etc. to the shelters. Clause 10 gives the facilities which shall be provided to the destitutes and poor in the shelters. Clause 11 provides for supply of wheat, etc. to the poor at a price to be determined by the State Boards. Clause 12 provides for the Constitution of the National Fund for the Rehabilitation of Destitutes and Poor. Clause 13 provides for running of rehabilitation centres for destitutes and poor in the States and Union territories for which the Central Government has to extend help in cash and kind to States and bear full expenditure as regards Union territories. Clause 14 provides for rehabilitation of destitutes and poor trained by State or Union territory centres by the Central Government. Clause 16 provides for the presentation of report by the Central Government on the performance of the Act to both Houses of Parliament. The Bill, therefore, if enacted, is likely to involve a recurring expenditure of about rupees one hundred crores per annum. Out of this expenditure about rupees twenty-five crores will be out of the Consolidated Fund of India and the rest of the amount will be collected by other means.

It is also likely to involve a non-recurring expenditure of about rupees one crore.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks establishment of a separate Department for proper implementation of the provisions of the Bill. Clauses 4 and 5 provide for the setting up of National Destitute and Poor Rehabilitation Board and State or Union territory Destitute and Poor Rehabilitation Boards. Clause 6 provides for release of funds and materials for the maintenance of shelters established under clause 7 of the Bill. Clause 12 provides for the collection of funds for the implementation of the provisions of the Bill. Clause 13 provides for the establishment of training centres and clause 15 provides for the framing of rules and regulations for carrying out the purposes of the Bill.

The matters for which rules may be made are matters of detail only. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 62 OF 1987

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1987.

Short
title.

2. For article 263 of the Constitution, the following article shall be substituted, namely:—

Substi-
tution of
new
article
for arti-
cle 263.

“263. (1) There shall be established an Inter-State Council, charged with the duty of—

Estab-
lish-
ment of
an inter-
State
Coun-
cil.

(a) inquiring into and advising upon disputes which may have arisen between States;

(b) investigating and making reconsideration upon subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or

(c) making recommendations, in particular, for the better co-ordination of policy and action with respect to that subject.

(2) The Council shall consist of the Prime Minister, the Union Minister of Home Affairs and the Chief Ministers of the States/ Union territories:

Provided that the Council may invite any other member of the Union Council of Ministers and the Administrator of a Union territory to the Council, whenever considered necessary.

(3) The Prime Minister shall be the Chairman of the Council.

(4) The Council shall meet at least once in a year and at any time at the request of the Chairman or of a Chief Minister of a State.

(5) (a) The Council shall have a Secretary who shall be appointed by the President under his hand and seal on the advice of the Prime Minister in consultation with the Chief Ministers of the States;

(b) The term of office of the Secretary shall be five years;

(c) The other terms and conditions of service of the Secretary shall be such as may be laid down by the Council; and

(d) The Union Government shall appoint such other staff, to assist the Secretary, as may be necessary.

(6) The Council shall have an annual budget to which the Central Government and the Governments of the States shall contribute equitably.

(7) The Council shall have the power to lay down its own procedure.”.

STATEMENT OF OBJECTS AND REASONS

Article 263 of the Constitution authorises the President to set up an Inter-State Council, for the purpose of co-ordination between States, if he is satisfied about the need for it. The article has been interpreted as recommendatory rather than mandatory. Relying on this interpretation, the Government have persistently refused to advise the President to set up such an Inter-State Council as contemplated in the Constitution. As such, a Council has not yet been set up.

The Administrative Reforms Commission, although did not share the view of changing the Constitution for more harmonious relations between the Centre and States, yet recommended the use of this enabling provision to set up a Council. The recommendation, however, did not find favour with the Government.

In the changed political condition, particularly marked by the advent of multi-party polity, the need for a forum for mutual exchange of views on issues which concern the States as well as the Centre, or which concern more than one State is highly imperative.

The National Development Council has not proved itself to be an effective forum for the coordination of policies and actions in this regard. The Constitution, therefore, needs to be amended to make this provision mandatory.

Hence this Bill.

NEW DELHI:
April 24, 1987.

SYED SHAHABUDDIN

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for establishment of an Inter-State Council. It also provides for appointment of a Secretary to the Council and for appointment of necessary staff to assist him, by the Union Government. There will be some expenditure in respect of salaries and allowances to the Secretary and staff. There is also a provision in the Bill that the Union Government and the Governments of the States shall contribute equally to the annual budget of the Inter-State Council. The Bill, if enacted, therefore would involve expenditure from the Consolidated Fund of India.

An annual recurring expenditure of about ten lakhs of rupees is likely to be involved from the Consolidated Fund of India.

A Non-recurring expenditure of about two lakhs of rupees is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill provides for laying down by the Council the terms and conditions of the service of the Secretary to the Inter-State Council. provision has also been made empowering the Council to lay down its own procedure. The matters with respect to which the Council will make rules are matters of detail only. The delegation of the legislative power, therefore, is of a normal character.

BILL NO. 58 OF 1987

A Bill further to amend the Constitution of India.

Enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1987.

Short
title and
commen-
cement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Seventh Schedule to the Constitution,—

Amend-
ment of
Seventh
Schedule.

(a) in List I—Union List, for entry 56, the following entry shall be substituted, namely:—

“56. Water, that is to say, water supplies, irrigation and canals, water storage and water power including regulation and development of inter-State rivers and river valleys.”;

(b) in List II—State List, entry 17 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Water is the most precious gift of nature to India. It is a *sine qua non*, not only for the economic development but also for meeting the growing food requirements of the country. The total surface water available in our country is nearly 1440 million acre ft. of which only 220 million acre ft. of water is now being used, particularly when nearly a third of the country is drought prone.

It has been estimated that the plans evolved by State Governments can utilise not more than 540 million acre ft. of water. This includes the use by a large number of inter-State river schemes benefiting more than one State on which understanding would have to be reached on planning and implementation.

If we take a national view and harness major inter-State and international rivers in the larger interests of the country as well as neighbouring countries, the benefit would increase considerably. At least 180 million acre ft. more water could be utilised in our country. 40 million KW of power can be generated and perennial inland navigation can also be provided.

Hence, the Bill seeks to transfer the subject of development and management of water resources from the State List to the Union List to enable the Union Government to formulate plans, for the speedy execution of irrigation, power and other river water schemes.

NEW DELHI;
April 29, 1987.

CHANDRA SHEKHAR VERMA

BILL No. 61 OF 1987

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1987.

Short title
and com-
mence-
ment.

(2) It shall come into force at once.

2. After article 333 of the Constitution, the following article shall be inserted, namely:—

Insertion
of new
article
333A.

“333A. (1) Seats shall be reserved for the Scheduled Castes and Scheduled Tribes in all local bodies, including those for the offices of Chairman, President or Mayor, as the case may be, of Gram Panchayat, Zila Parishad, Municipal Committee or Municipal Corporation, of every State for a period of ten years from the date of commencement of the Constitution (Amendment) Act, 1987.

Reserva-
tion of
seats for
Scheduled
Castes and
Scheduled
Tribes in
local
bodies.

(2) The number of seats reserved under clause (1) for the Scheduled Castes and Scheduled Tribes in local bodies of a State, shall be determined on the basis of population of Scheduled Castes and Scheduled Tribes of a unit of local body in proportion to the total population of that particular unit.”.

STATEMENT OF OBJECTS AND REASONS

The fact is that there has been very little representation of Scheduled Castes and Scheduled Tribes in any State in the elections to the high offices of President, Chairman and Mayor in local bodies like Municipal Committee, Zila Parishad, Municipal Corporation, Gram Sabha, etc. during the last 20 years. In order to provide proper and adequate representation of the people belonging to these poor and depressed classes of the society in the country, it is necessary to make a special provision in the Constitution of India for the purpose. The number of persons belonging to Scheduled Castes and Scheduled Tribes in the country is 22 per cent of the total population. Despite this, the candidates belonging to Scheduled Castes and Scheduled Tribes are not able to get themselves elected to these high offices in the local bodies. Their election to these offices is not possible so long these offices are reserved for them. It is necessary to make further amendment to the Constitution to safeguard the interests of these backward communities. This Bill will bring about social equality among the people and enhance the prestige of the nation. It will also eliminate the reactionary forces.

Hence this Bill.

NEW DELHI;
May 15, 1987.

LACHCHHI RAM

SUBHASH C. KASHYAP,
Secretary-General.